IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2700 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SURYA ROAD LINES

Versus

AHMEDABADN MUNICIPAL CORPN

Appearance:

MR MN MEHTA for Petitioner

Mr.Nikhil Karil for MR BP TANNA for Respondents No. 1-2

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 29/11/2001

ORAL JUDGEMENT

Learned advocate Mr.M.N. Mehta appearing for the petitioner is not present.

2. The petition is filed challenging the action of Ahmedabad Municipal Corporation, respondent no.1 whereby penalty was imposed amounting to Rs.12,246/-. The case of the petitioner is that the goods were sent by Ambica

Chemical Industries, Vapi to Amar Chemicals, Odhav, GIDC, Ahmedabad. The case of the petitioner is that the Valuation Officer had evaluated the goods on higher side and calculated the octroi amount of Rs.2041/- extra over and above the amount paid by way of octroi of Rs.3492/and also imposed penalty to the tune of six times of penalty, i.e. 2041 x 6 = 12,246/-. The petitioner has alleged that the impugned action is arbitrary on the ground that the respondent authority has no power to assess the goods in this manner. It is submitted by the petitioner that the quality and details of the goods were declared and on that basis octroi was paid.

3. This Court on 16.4.1992 passed the following order that,

"Heard the ld. advocates.
Rule returnable on 6.7.1992. On the petitioner's depositing an amount of Rs.8,000/-, (Rupees eight thousand only) with the Aslali Octroi Naka of the Ahmedabad Municipal Corporation, interim relief in terms of para 8(b) of the petition. Aforesaid interim order is passed without prejudice to the rights and contentions of both the parties and subject to the final decision in the matter. it is clarified that the respondents will be at liberty to take sample of each drum and bag in the presence of the petitioner and/ or his representative. Direct service permitted."

4. Today, when the matter is called out learned advocate appearing for the respondent authority produced, a copy of the report of the Assistant Chemical Examiner, Central Excise & Customs Laboratory, Vadodara for perusal. Learned advocate submitted that it is clear from the said report that the description which was given on the drums carrying the goods in question was not a correct description of the goods. Therefore, the action of the respondent authorities of assessing the octroi was right.

5. Taking into consideration the contents of the report and taking into consideration the submissions made by the learned advocate for the respondent authorities, the petition is rejected. Rule is discharged. Interim relief is vacated. No order as to costs.

(Ravi R. Tripathi, J.)

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